IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH,

AT HYDERABAD

HON'BLE SRI JUSTICE V.V.S. RAO

W.P. No. 20620 OF 2005

Date: 22.09.2005

BETWEEN:

Eagala Benniamma

.... PETITIONER

Vs.

1. The District Collector (Panchayat Wing) East Godavari District, Kakinada, and others.

.... RESPONDENTS

HONOURABLE SRI JUSTICE V.V.S. RAO

WRIT PETITION NO. 20620 OF 2005

ORDER:

The petitioner is Sarpanch of S. Pydipala Gram Panchayat of Routhulapudi Mandal, East Godavari District. The first respondent issued a show cause notice to the petitioner calling upon her to show cause as to why she should not be suspended for a period of three months as per sub-section (6) of Section 249 of Andhra Pradesh Panchayat Raj Act, 1994 (for short 'the Act'). The petitioner is alleged to have committed as many as 17 financial irregularities involving a total sum of Rs.4,97,495/-. These irregularities are like drawing amounts without executing any work from SGRY, X Finance Commission Funds, Withdrawal of Gram Panchayat funds towards public health items, which were not purchased, etc. The said show cause notice was issued on 8.9.2005. On the same day the District Panchayat Officer, the second respondent herein issued proceedings purportedly under Rule 42 of the Andhra Pradesh Panchayat Raj Rules, 1994 (for short 'the Rules') made in G.O.Ms.No.30 dated 20.1.1995 prohibiting the petitioner from operating all kinds of

funds of the Gram Panchayat. These proceedings are assailed in this writ petition.

The learned counsel for the petitioner submits that the impugned order was not preceded by any notice as required under Rule 42 (1) of the Rules, and that even before the petitioner could submit explanation to the show cause notice issued by the Collector, it was improper on the part of the second respondent to have suspended the cheque drawing powers to the petitioner.

A perusal of Rule 42 of the Rules would show that it is competent for the District Panchayat Officer to prohibit the Sarpanch from drawing the moneys from the Gram Panchayat and while doing so, as per the first proviso to Rule 42 an opportunity of making refund has to be given to the Sarpanch. The second proviso to sub-rule (1) of Rule 42 empowers the District Panchayat Officer to pass interim directions directing the Sarpanch not to draw moneys from the Gram Panchayat pending the exercise of the power under sub-rule (1) of Rule 42. When an interim direction is given prohibiting the Sarpanch from drawing funds, the Rules do not contemplate any notice. In that view, the submission is misconceived.

The power of the District Panchayat Officer to prohibit the Sarpanch from drawing funds of the Gram Panchayat merely because action is pending before the District Collector under Section 249 (6) of the Act, the same does not prohibit the District Panchayat Officer from prohibiting the Sarpanch against whom there are grave allegations of financial irregularities, from drawing Gram Panchayat funds. Further Rule 42(2) provides for an appeal to the District Collector and the petitioner is given liberty to avail the same.

The Writ Petition is devoid of merit and therefore, the same is accordingly dismissed at the admission stage.

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(**V.V.S. RAO, J.)**

22nd September, 2005

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